

Salisbury, North Carolina
February 17, 2009

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem Paul B. Woodson, Jr., Councilmen William (Bill) Burgin, William (Pete) Kennedy, and Mark N. Lewis; City Manager David W. Treme; City Clerk Myra B. Heard; and City Attorney F. Rivers Lawther, Jr.

ABSENT: None

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilman Burgin.

PLEDGE OF ALLEGIANCE

Mayor Kluttz asked that local men and women serving in the Armed Services overseas be remembered as she led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular meeting of February 3, 2009.

(b) Budget Amendment

Adopt a budget Ordinance amendment to the FY 2008-2009 budget in the amount of \$1,000 to appropriate proceeds from branding items sales.

AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE PROCEEDS FROM BRANDING SALES.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 9, and is known as Ordinance No. 2009-08.)

(c) Temporary Street Closure

Close Lake Drive, North Jackson Street, Miller Street, Club House Drive, and Annadale Drive, Sunday March 22, 2009 from 7:30 a.m. to 5:00 p.m. for the Out Like a Lion Bicycle Race.

(d) Temporary Street Closure

Close South Main Street at Old South Main Street to Main Street and A Avenue March 7, 2009 from 8:00 a.m. until 10:30 a.m. for a memorial service to honor Victor Isler and Justin Monroe.

Thereupon, Mr. Woodson made a **motion** to adopt the Consent Agenda as presented. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

SPECIAL USE PERMIT – NIGHTCLUB/BAR 1923 SOUTH MAIN STREET

SUP-05-08 1923 South Main Street

Councilman Lewis asked to recuse himself due to a conflict of interest.

Thereupon, Mr. Woodson made a **motion** to excuse Councilman Lewis. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Woodson and Ms. Kluttz voted AYE. (4-0)

(a) Swearing In

Mayor Kluttz swore in the following persons to testify in this case:

Mr. David Phillips
Mr. Leechann McManus
Mr. Douglas Pentak

(b) Receive Testimony

Development Services Director David Phillips indicated that the request before Council is for a nightclub to be established at 1923 South Main Street. He stated that the request is presented as Special Use Permit 05-08. He noted that with a Special Use Permit (SUP) certain standards must be observed during the hearing. He reviewed the decision-making rules which state:

- The zoning ordinance (LDO) must spell out the standards for granting a Special Use Permit (SUP), and those decision-making standards cannot be developed on a case-by-case basis
- The decision to grant or deny the SUP, or to impose conditions on the approval, must be based solely on the LDO standards
- The standards must provide sufficient guidance for decision. The applicant, neighbors, and board(s) all need to know what the ordinance requires for approval

Mr. Phillips stated that with this SUP there will be a time for a public hearing, during which evidence will be presented to show the pros and/or cons for the use. He then reviewed the standards for the production of evidence:

- The burden is on the applicant to present sufficient evidence to allow the board(s) to make findings that the required standards will be met
- The burden is on an opponent to present sufficient evidence that a standard will not be met
- If insufficient evidence is presented that the required standards will be met, then the SUP must be denied
- If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued
- If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied
- If there is conflicting evidence, the board(s) decides what the facts are and decides accordingly

Mr. Phillips noted the Standards for Decision for an SUP for a nightclub:

1. No such facility shall be located within 500 feet of any lot containing a school
2. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
3. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
4. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed

Mr. Phillips pointed out the proposed site on an aerial photograph and noted its location on South Main Street, adjacent to railroad tracks. He also noted the site's proximity to Jake Alexander Boulevard. He stated that the site is located within a complex of buildings, but the site will only use approximately 3,800 square feet of space within the larger building and the entire building will not be used as the nightclub.

Mr. Phillips stated that the property is zoned Highway Business (HB) and bars, lounges and nightclubs are allowed in the district but only with the issuance of a Special Use Permit through the Planning Board and City Council.

Mr. Phillips reviewed photographs of the business complex and the surrounding properties and businesses and noted that the area is business oriented.

Mr. Phillips stated that the parking layout for the site has been based on a site plan approved in 1996. He noted that this was under the group development process for the old ordinance. He stated that since that time staff has evaluated the plan and that the spaces shown behind the buildings would not be allowed because of their proximity to the railroad track. He stated that there were 138 spaces shown and if these are removed it would result in 112, which is more than enough for the complex under today's parking standards.

Mr. Phillips again reviewed the Standards for Decision and noted that items 2, 3, and 4 will be the main issues in which the evidence will be presented and Council's findings will be based.

Mr. Phillips informed Council that this request has gone through the Planning Board. He stated that at the Planning Board's initial meeting it tabled a decision in order to gather more information. He stated that at the second meeting the applicant presented sufficient evidence to satisfy the Planning Board and the Special Use Permit was recommended for approval by a unanimous vote.

Mayor Kluttz opened the floor to receive public comment.

Mr. Douglas Pentak, 1400 Rose Hill Drive, Waxhaw, North Carolina, stated that he owns the building adjacent to this site, where Baker Industries is located. He noted that Baker Industries is against this. He stated that when he spoke with his tenants about access for parking they were adamant that parking not be allowed because of the potential liability. He added that the company is definitely against this. Mr. Pentak stated that he received a letter from Mr. Bell who owns property across the street. He stated that Mr. Bell cites three instances where a nightclub was located adjacent to a building he owned in Charlotte. Mr. Pentak stated that his building is next to this proposed nightclub and he does not see any benefit. He stated that this is not a nightclub area, but is an industrial area. He stated that when the nightclub owner made his presentation to the Planning Board he stated that there would be one police officer present while the business was open, but the City recommended two officers. He added that he thinks this indicates the City suspects there will be problems. Mr. Pentak stated that the Chief of Police in

Charlotte has stated that his biggest problems are nightclubs and bar areas and now this is being brought to Salisbury. He stated that he is worried about his property value and about his tenant leaving when the lease expires because the tenant does not want to be located next to a bar. Mr. Pentak closed by stating that he does not see how this fits into the area.

Mr. Leechan McManus, 206 School Circle, stated that he approached this project to open a nightclub through the guidelines established by the City and he feels like he has met those guidelines with no problems. He noted that he understands the concerns about property. He stated that he received a proposal from the Salisbury Police to have two police officers on site and he wants to prevent things from happening and he wants people to feel like this is a safe environment. He stated that they are trying to avoid the things that happen at nightclubs when they only have one police officer and are taking these steps for safety precautions. Mr. McManus stated that they have met the guidelines that the City put forth and will respect the neighbor's property. He added that they will have no trespassing signs along with three parking lot attendants to help direct the flow of traffic. He stated that they are trying to provide a place of employment but their first priority is safety. He stated that the recommendation for two police officers at a nightclub is a wonderful idea.

There being no one else present to address Council, Mayor Kluttz closed the public hearing.

Mayor Kluttz stated that the letter referred to by Mr. Pentak, from Mr. Robert L. Bell, Bell Properties, Ocean Isle Beach, North Carolina was received by City Council members but according to the City Attorney it cannot be considered as evidence because the person presenting evidence must do so in person. She added that Council cannot consider this letter in its deliberations.

Mayor Kluttz stated that Council's decision must be based on findings of fact and if this meets all of the items in the findings of fact, Council is obligated to approve and if it does not, then deny. She added that Council has the right to rescind the Special Use Permit if it is approved and the applicant fails to meet the standards.

Councilman Kennedy stated that Mr. McManus referred to "we" in his statements and asked Mr. McManus about his business partners. Mr. McManus responded that he has one friend who he consults with and who will be employed. He stated that his friend will help him establish the business but he is the sole proprietor.

Councilman Burgin asked Mr. Phillips about the process and timetable to rescind a Special Use Permit. Mr. Phillips responded that if the applicant receives numerous violations or complaints staff will have 30 days to notify the owner that it will be brought back to City Council. He stated that if the permit comes back to Council, Council will have the opportunity to question the applicant about the violations. He noted that Council can give the owner a timeframe to bring the violations into compliance or rescind the permit. Mr. Burgin asked if withdrawal of the permit is immediate or if a certain

amount of time must be given. Mr. Phillips stated that it would be Council's decision and could be immediate. He added that staff has not actually handled a rescission.

Mr. Burgin stated that as he reviews the list of requirements the condition that the nightclub be located 500 feet from schools is not subjective, and asked if this meets the requirement. Mr. Phillips responded that it does. Mr. Burgin stated that the use meets the ordinance visually and is functionally compatible as there is no change in the building. He noted that hopefully uses that were reasonably compatible were put into the Ordinance and if the use meets the Ordinance it is hard to state that it does not meet the compatibility function.

Mr. Burgin stated that relative to public health, safety and welfare if two officers are present he feels this standard is being met. He asked if staff has any evidence indicating that a nightclub in this location would substantially injure property values. Mr. Phillips responded that staff does not have any such evidence.

Mayor Pro Tem Woodson commented that there is a bar located behind his business and the first year was not easy with many trials and tribulations. He stated that he had many neighbors come to his business to complain about noise but the bar was finally able to control this. He noted that parking is a problem and will be hard for the neighbors to stop. He added that there was also a lot of trash in the parking lot during the first year but the bar has also addressed this. Mr. Woodson stated that he does not think the bar has affected his property value. He stated that if this is approved Mr. McManus will have to have the police officers to keep things in control. He asked if Council can require Mr. McManus to have the two police officers. Mr. Phillips responded that Council can place reasonable conditions on the Special Use Permit. Mr. Woodson stated that he feels Council should do this because the bar behind him did not have a police officer for a while and it was problem for the neighbors.

Mr. Burgin asked Mr. Woodson if he felt it was reasonable to require the owner to clean debris from the parking lot each morning. Mr. Woodson commented that the bar behind him does this 80% of the time and at times he picks up trash himself. He added that the bar has become a good neighbor and the building is rented, people are working there and spending money in Salisbury. Mr. Woodson stated he would support the permit if Council requires two police officers.

Mr. Kennedy stated that the Planning Board has done an extensive study and feels that Mr. McManus has met the requirements. He added that he does not see anything that would allow Council to deny the request and he supports the Special Use Permit with the addition of the police officers.

Mr. Burgin stated that he would like to add that the site be cleaned before the next business day at 9:00 a.m. as part of Council's conditions in addition to the requirement for two police officers.

(c) Findings of Fact

Councilman Burgin offered the following findings of fact:

1. The property is 500 feet or more from the nearest school
2. The use meets the Ordinance
3. The building is visually and functionally compatible with the neighbors
4. The public health, safety and welfare will remain in tact
5. The property values are not expected to be substantially injured

(d) Thereupon, Mr. Burgin made a **motion** to issue a Special Use Permit for the operation of nightclub/bar located at 1923 South Main Street with two conditions: the proprietor hire two officers during their business hours; and will clean-up the exterior of the property before the next business day at 9:00 a.m. Mr. Woodson seconded the motion and stated that cleaning up will be a big problem for Mr. McManus and this is where the complaints will come for Council. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

STORM DRAINAGE INCENTIVE – 612 SOUTH JACKSON STREET

(a) Mr. Dan Mikkelsen, Engineering Director, addressed Council regarding a Storm Drainage Incentive grant for 612 South Jackson Street. He indicated that this item was tabled at the February 3, 2009 Council meeting after Council expressed concerned with the method for bid selection. Mr. Mikkelsen indicated that staff met with the property owners and shared Council's concerns and the homeowner's decided to use Carolina Site Works, the apparent low bidder, with or without the alternates on private property.

Mr. Mikkelsen indicated that the total qualifying expense is approximately \$63,000. He noted that the contractor will need to close a portion of the 600 block of South Jackson Street while construction is taking place and that this will not affect other property owners. Mr. Mikkelsen recommended Council approve a Storm Drainage Incentive Grant not to exceed \$31,500 for 612 South Jackson Street and allow closure of a portion of the block during construction.

Mr. Burgin thanked staff and the property owners for understanding Council's concerns regarding how public money is spent.

(b) Thereupon, Mr. Burgin made a **motion** to award a Storm Drainage Incentive grant not to exceed \$31,500 for 612 South Jackson Street and to allow the closure of a portion of the 600 block of South Jackson Street during construction. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

BUDGET ORDINANCE AMENDMENT – \$241,650 – FEMA FIRE ACT GRANT

Fire Chief Bob Parnell informed Council that the Salisbury Fire Department has been awarded a 2008 Assistance to Firefighter Grant from the Department of Homeland Security through the Federal Emergency Management Agency (FEMA). He noted that the value of the grant is \$268,500 including a required match from the City of \$26,850 for a total grant amount of \$241,650. He stated that the grant process was very competitive and applications were received nationwide. He stated that the grant will be used to purchase 60 sets of turnout gear which protects firefighters from cold, moisture, and heat. He noted that a full set of turnout gear costs approximately \$2,000. Chief Parnell indicated that turnout gear has a 10 year shelf life and the City's current gear is approximately 6 or 7 years old. He stated that the gear must be tested annually and some of the City's 6 year old gear is failing the moisture test.

Chief Parnell noted that the grant funds will be used to purchase new technology called a Pac Tracker system which sends an electronic signal if a firefighter goes into alarm mode. He stated that the grant funds will also be used to purchase thermal imaging cameras and that Fire Station 4 will be retrofitted with a diesel exhaust system. He pointed out that Fire Stations 1, 2, and 3 are already equipped with diesel exhaust systems. He added that the grant funds will also be used to purchase physical fitness and workout training equipment.

Chief Parnell noted that he is very proud of Battalion Chief Chris Kepley who wrote the grant earlier this year and impressed the Federal administration to award the grant.

Mayor Kluttz stated that she is very proud and grateful for the receipt of the grant.

Thereupon, Mr. Lewis made a **motion** to adopt an Ordinance amending the FY2008-2009 budget Ordinance of the City of Salisbury, North Carolina to appropriate Assistance to Firefighters Grant. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE 2008-2009 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA TO APPROPRIATE ASSISTANCE TO FIREFIGHTERS GRANT.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 10, and is known as Ordinance No. 2009-09.)

TEMPORARY USE PERMIT – CARNIVAL AT SALISBURY MALL

Mr. David Phillips, Development Services Manager, addressed Council regarding a request from Kevaworks, Inc. for a temporary use permit for a carnival to use the parking lot at the Salisbury Mall. He reviewed aerial photographs of the area and

indicated that Kevaworks was issued a temporary use permit last year at a different area of the parking lot. He stated that they are requesting a permit from March 19-29, 2009 to operate from 5:00 p.m. until 10:00 p.m. on weekdays and 12:00 p.m. until 10:00 p.m. on weekends. He recommended Council approve the permit for 11 days.

Councilman Kennedy asked if there were any records of police service calls during the event last year. Mr. Phillips indicated that there were no known calls made for police service.

Thereupon, Mr. Kennedy made a **motion** to approve the temporary use of the parking area of the Salisbury Mall located at 1935 Jakes Alexander Boulevard, West for a carnival. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

REPORT- NUISANCE CONDITIONS AT 601 NORTH LONG STREETS

Mr. Chris Branham, Code Services Division Manager, addressed Council regarding nuisance conditions at 601 North Long Street. Mr. Branham reviewed photographs and the history of the area:

History of Site

- August 7, 2007 – Portion of building collapsed
- April 22, 2008 – Letter sent ordering to finish demolition/cleanup
- May 22, 2008 – Public hearing held
- June 22, 2008 – Compliance date #1
- July 22, 2008 – Compliance date #2
- September 23, 2008 – Letter sent regarding Council meeting
- October 7, 2008 – Item removed from agenda after good faith promise made to clean up site by October 10, 2008.
- December 2008 – Site remained unimproved
- December 31, 2008 – Meeting with Mr. Smith, identified issues of compliance
- January 21, 2009 – Certified letter sent asking for written plan by February 6, 2009.
- February 6, 2009 – Email received at 10:00 a.m. from Mr. Smith
- February 16, 2009 – Site inspected, fence not around perimeter

Mr. Branham noted that the site is still not in compliance and is a hazard to public safety. He recommended Council set a public hearing for March 3, 2009 and consider adopting an Ordinance directing the Housing Inspector to remove debris from the site of a demolished building at 601 North Long Street.

Mayor Pro Tem Woodson asked if the City would recover the cost of the debris removal from a lien on the property. Mr. Branham indicated that this was correct.

Councilman Kennedy asked if the foundation would be filled in once the debris is cleared. Mr. Branham stated that the details of the clean up are still being determined, but the brick will not be buried and the lot will be filled with dirt.

Thereupon, Mr. Burgin made a **motion** to set a public hearing for March 3, 2009 to receive public comments regarding nuisance conditions at 601 North Long Street. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

STOP CONDITIONS – HENDERSON AND RAILROAD STREETS

Ms. Wendy Brindle, Traffic Engineer, addressed Council regarding stop conditions at Henderson and Railroad Streets. She stated that Norfolk Southern and the North Carolina Department of Transportation Rails Division (NCDOT) recently performed maintenance on Henderson Street. She stated that NCDOT requested the City change stop conditions at this site. She indicated that currently when cars cross the railroad tracks at Henderson Street they yield to traffic on Railroad Street. She stated that the City has been asked to place stop signs on Railroad Street and allow Henderson Street to be the through street. She pointed out that vehicles traveling on Henderson Street are often forced to sit on the railroad track when yielding to the Railroad Street traffic. She stated that staff has reviewed the area and recommends stop signs be installed on Railroad Street and the yield sign on Henderson Street be removed. She indicated that there would be a temporary 3-way stop installed to allow drivers to adjust to the change.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-332.5, Article X, Chapter 13 of the Code of the City of Salisbury, relating to yield signs. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-332.5, ARTICLE X, CHAPTER 13 OF THE CODE OF THE CITY OF SALISBURY, RELATING TO YIELD SIGNS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 11, and is known as Ordinance No. 2009-10.)

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending Section 13-332, Article X, Chapter 13 of the Code of the City of Salisbury, relating to stop signs. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-332, ARTICLE X, CHAPTER 13 OF THE CODE OF THE CITY OF SALISBURY, RELATING TO STOP SIGNS.

(The above Ordinance is recorded in full in Ordinance Book No. 22 at Page No. 12, and is known as Ordinance No. 2009-11.)

COMMENTS FROM THE CITY MANAGER

(a) American Recovery and Reinvestment Act

City Manager David Treme asked Mr. Doug Paris, Assistant to the City Manager, to review the American Recovery and Reinvestment Act (Stimulus Act) and the opportunities that may be available for the City. Mr. Paris indicated that \$787 billion will be directed to the Federal and State government and then funneled to local government. He reviewed the act:

Status

- Bill/Legislation does not specify details on the flow of funds to and through Federal Programs and the state.
- Much of the details related to process and funding mechanisms have not been announced – some areas have begun movement

Strategy

- Monitor Federal Programs
- Ensure we are on state priority lists
- Watch and be ready for grant application

Mr. Paris reviewed Select Funding Opportunities:

Select Funding Opportunities

- | | |
|---|-------------|
| • Community Development Block Grants (CDBG) | \$2 billion |
| • Neighborhood Stabilization Program (NSP) | \$1 billion |

Strategy

- Monitor HUD and State programs

Select Funding Opportunities

- | | |
|------------------------------------|-------------|
| • Clean Water Revolving Funds (NC) | \$4 billion |
| • Safe Drinking Water Funds (NC) | \$2 billion |

Funding Type

- 50% loans
- 50% grants, principal forgiveness

Strategy

- Send priorities to North Carolina Department of Water Resources to get on list

Select Funding Opportunities

- | | |
|-----------------------------------|-------------|
| • Community Oriented Policing | \$1 billion |
| • Byrne Justice Assistance Grants | \$2 billion |

- State and Local Enforcement Grants \$225 million
- Firefighter Assistance Grants \$210 million

Strategy

- Research grants, apply if appropriate

Select Funding Opportunities

- Airport Improvement Grants (AIP) \$1.1 billion
- Public Transportation (bus and rail) \$8.4 billion

Strategy

- Contact Rowan County/EDC about AIP Grants
- Transit Division already on North Carolina State priority list

Select Funding Opportunities

- Broadband Opportunities Grant \$4.7 billion
National Telecommunications and Information Administration (NTIA)

Strategy

- Wait for Federal Communications Commission (FCC) to define terms of the legislation
- Wait for state to make clear the route for grants

Councilman Kennedy asked if the information came directly from www.recovery.gov. Mr. Paris indicated that the information is directly from the bill. He indicated that www.recovery.gov is a Federal website for citizens to access information regarding the bill and will also provide access to reports on how the money has been spent.

Mayor Kluttz stated that Mr. Paris is doing an excellent job keeping Council informed of State and Federal legislation. She stated that she is disappointed that the lobbying efforts by the cities through the United States Conference of Mayors and the National League of Cities was not successful in having local governments directly funded from the Stimulus Act. She indicated that North Carolina Mayors through the US Conference of Mayors compiled a list of projects that were ready to implement and would have created 100,000 jobs immediately. She pointed out that it is imperative to monitor this closely so the City will be in the best position possible to apply for funds that will be useful.

Mr. Treme stated that he thought the Stimulus Act would have included more funding for infrastructure. He stated that Salisbury will be among nationwide competition for a relatively small amount of money for infrastructure funding.

(b) 24th Annual Future Direction & Goal Setting Retreat

City Manager David Treme noted that Council recently conducted its 24th Annual Future Direction & Goal Setting Retreat. He stated that he will present the updated Outcomes and Goals at the next Council meeting for review and approval.

(c) City Park Tennis Courts Construction

City Manager David Treme announced that City Park tennis courts will open March 21, 2009.

(d) Neighborhood Stabilization Grant

City Manager David Treme stated that the City has applied for a \$5 million Neighborhood Stabilization Grant and should hear results soon. He stated that he feels this grant would go a long way in addressing code enforcement issues.

(e) City Budget

City Manager David Treme stated that staff is working diligently on the budget for next year. He indicated that this will be a very difficult year given the flat sales tax revenue, interest income, and other impacts. He indicated that the City could have a \$1.4 to \$1.7 million deficit this year. He stated that staff will attempt to address this issue and present a no tax increase budget, but it could have an impact on the City's level of service. He noted that staff will review each cost center and return to Council with a plan.

PUBLIC COMMENT

Mr. Larry Wright, Neel Estates, stated that the League of Municipalities exaggerates the benefits of forced annexation and referred to statements made by Mr. Ellis Hankins, Executive Director for the League. He stated that the City receives revenues from the Powell Bill Fund, lot grants, and sales tax from residents who are not in the City. Mr. Wright stated that citizens should be allowed to vote on annexation.

Mr. Carl Eagle, Neel Estates, stated that he would like to see the annexation situation change. Mr. Eagle stated that the League of Municipalities presented 20 recommendations to the Joint Commission on Annexation to improve the annexation process. He suggested that Council follow the League of Municipalities suggestions until a decision is made by the Legislature. He noted three of the 20 points that Council could follow:

- Do not start annexation with a Resolution of Intent, but with Resolution of Consideration
- Financial Impact Statement would require five year projection

- Require financial estimates to be based on every household that would require water and sewer.

Mr. Eagle stated that he thinks this will help the situation.

There being no one else to address Council, Mayor Kluttz closed the public comment session.

Councilman Burgin asked City Manager David Treme to explain how sales tax revenue is distributed. Mr. Treme noted that sales tax revenue is distributed from the State and is divided between the City, County, and the other municipalities using a formula based on population.

Mr. Treme pointed out that the City has never started involuntary annexation with a Resolution of Intent, but has always started involuntary annexation with a Resolution of Consideration.

Mayor Kluttz stated that she recently learned of proposed legislation for an annexation moratorium specifically for Rowan County. She stated that the City of Salisbury has no plans for involuntary annexation during this legislative session or in the near future. She stated that Council is willing to follow whatever the State decides regarding annexation but she does not feel it is appropriate for Rowan County to be singled out in this legislation.

Councilman Lewis stated that he feels there are areas of the City's annexation process that need improvement with more direction from elected officials. He stated that there should be a group to review the process and make improvements.

Mayor Kluttz stated that Council will not take any action until there is a thorough study completed.

MAYOR'S ANNOUNCEMENTS

(a) Salisbury Fire Department Memorial Service

Mayor Kluttz announced that the Salisbury Fire Department will hold a memorial service to honor Victor Isler and Justin Monroe Saturday, March 7, 2009, at 8:45 a.m. at the Firefighters Memorial located at 1600 South Main Street. The public is invited.

(b) Saint Patrick's Day 5K and Fun Run

Mayor Kluttz announced that the Salisbury Fire Department will host a Saint Patrick's Day 5K and Fun Run March 14, 2009 at 8:30 a.m. The run starts and ends at the J.F. Hurley YMCA at West Jake Alexander Boulevard. Early registration is available at www.active.com or at any City of Salisbury Fire Station. Participants can sign up on

the day of the event beginning at 7:45 a.m. Proceeds will help restore the City's antique 1941 fire truck.

CLOSED SESSION

Mayor Kluttz asked for a motion to go into closed session.

Thereupon, Mr. Woodson made a **motion** to go into closed session to consult with an attorney as allowed by North Carolina General Statute (NCGS) 143-318.11(3). Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RETURN TO OPEN SESSION

Mayor Kluttz announced that no action was taken in closed session.

Thereupon, Mr. Woodson made a **motion** to return to open session. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 6:45 p.m.

Mayor

City Clerk